GOVERNMNET OF ANDHRA PRADESH

ABSTRACT

Mines & Minerals – Mining Lease for Limestone over an extent of 649.684 Ha in Sy.No.22/B of Konuppalapadu (V), Yadiki (M), Ananthapuramu District held by M/s.Trishul Cement Industries India Ltd – Termination under Rule 12 (10) and Rule 24 of Minerals (other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 - Orders – Issued.

INDUSTRIES & COMMERCE (M.III) DEPARTMENT

G.O.MS.No. 5 Dated: 31-01-2020.

Read the following:

1. G.O.Ms.No.125, Ind & Com (M-III) Dept, dt.25.04.2006.
2. Govt Memo No.15284/M.III(1)/2012-2, dt.17.07.2013.
3. Govt Memo No.15284/M.III(1)/2012-4, dt.11.02.2014.
4. From the O/o DM&G, A.P., Vijayawada file No.3035/R3-2/2017, dt.22.03.2017.
5. Explanation dt.22.04.2017 & 16.05.2017 of M/s.Trishul Cement Industries India Ltd.
6. From the O/o DM&G, A.P., Vijayawada supplementary file No.3035/R3-2/2017, dt.06.07.2017.
7. Govt Memo No.15284/M.III(1)/2012, dt.07.07.2017.
8. From the Authorized Signatory, M/s.Trishul Cements Co., Ananthapuramu Dist Rep.dt.24.07.2017.
9. From the DM&G, A.P., Vijayawada Single File No.21825/R4-1/ATP/2017, dt.02.08.2017.
10. Govt Memo No.15284/M.III(1)/2012, dt.16.08.2017.
11. Representation, dt.06.09.2018 of M/s.Tadipatri Cements (P) Ltd.
12. From the DM&G, A.P., Vijayawada Single File No.1335498/R4-1/2018, dt.19.10.2018.
13. Govt Memo.No.15284/M.III(1)/2012-1&2, dt.07.10.2019.
14. From the DDM&G, Ananthapuramu SCN No.555/Vg/2019, dt.20.01.2020 addressed to M/s.Trishul Cements Company.

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ORDER:

In the reference 1st read above, a Mining Lease for Limestone over an extent of 649.684 Hectares in Sy.No.22/B of Konuppalapadu (V), Yadiki (M), Ananthapuramu District has been granted in favour of M/s.Trishul Cements Company for captive use for a period of (20) years subject to condition that the Company should establish the Cement unit within a period of (36) months from the date of execution. The lease was executed on 01.08.2007 and in force up to 31.07.2027.

2. In the reference 2nd read above, Government have accorded permission for a further period of (2) years to establish the Cement Plant. But in the reference 3rd above, the orders were modified granting the extension of time for a period of (5) years instead of (2) years for establishment of the Cement Plant from 01.08.2010 to 31.07.2015.

3. Government, have granted further extension of time to M/s.Trishul Cement Company for additional period of (5) years for establishment of Cement Plant from 01.08.2015 to 31.07.2020 vide reference 10th read above.

4. In the reference 11th read above, the lessee Company has requested the Government to update the name of the Mining Lease as M/s.Tadipatri Cements (P) Ltd., in all the official records in terms of orders, dt.23.08.2018 passed by the Hon'ble High Court of A.P. in W.P.No.27946/2018 filed by them.

5. In the reference 12th read above, while submitting his detailed remarks on the representation, dt.31.08.2018 of M/s.Tadipatri Cement (P) Ltd., the DM&G has made the following recommendations to Government:

i) Reject the representation, dt.18.05.2018 of M/s. Tadipatri Cements (P) Ltd., for name change.

(P.T.O.)

ii) Revoke the orders issued by the Govt., vide Memo No.15284/M.III(1)/2012, dt.16.08.2016, granting extension of time for a further period of 5 years for establishment of Cement Plant.

iii) Take necessary action to terminate the lease granted to and executed by M/s.Trishul Cements Company by invoking the provisions stipulated under Rule 24 of Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016.

6. Based on the detailed remarks submitted by the DM&G, Government observed that the lease holder has confessed that the partnership firm i.e., M/s.Trishul Cements Company, on whose name the lease was granted, has been dissolved as on 03.01.2011 by incorporation of M/s.Trishul Cement Industries (India) Limited with different subscribers. However, this company was also wound up by incorporation of M/s.Tadipatri Cements (P) Ltd., on 18.05.2018. Thus Trishul Cements Company on whose name the lease was granted is no longer in existence w.e.f. 03.01.2011. As such, M/s.Trishul Cement Company lost their legitimate right to hold the subject mining lease in their favour w.e.f 03.01.2011. Further, taking into cognizance of the Hon'ble Supreme Court of India's observation in Civil Appeal No.434 of 2016 (Arising Out Of SLP (Civil) No. 23311 Of 2015) in State Of Rajasthan and Ors. Vs. Gotan Lime Stone Khanji Udyog (P) Ltd. and Ors on 20.01.2016 "that Government can invoke the lifting of veil if the public interest so requires or if there is allegation of violation of law by using the device of a corporate entity, the corporate entity has been used to conceal the real transaction of transfer of mining lease to a third party for consideration without statutory consent by terming it as two separate transactions the first of transforming a partnership into a company and second of sale of entire shareholding to another company. The real transaction is sale of mining lease which is not legally permitted. Thus, the doctrine of lifting the veil has to be applied to give effect to law which is sought to be circumvented."

7. Accordingly, in the reference 13th read above, a Show Cause Notice was issued to the lessee/petitioner Company for non-intimation of change of lessee from partnership to limited company status without obtaining the prior approval of the Govt., as required under rule 24 of Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules'2016 issued vide MoM, GoI notification No.GSR 279 (E), dt.04.03.2016 without touching upon the orders dt.23.08.2018 passed by the Hon'ble High Court of A.P. in W.P.No.27946/2018 filed by them. The lessee/petitioner Company was directed to show cause within (60) days from the date of receipt of the Memo, as to why action shall not be taken against them for the above mentioned lapses.

8. In the reference 14th read above, the DDM&G, Ananthapuramu has informed that the lessee company has not established Cement Plant till date and the lessee Company not paid the advance dead rents for which the Company is in mineral revenue arrears of Rs.38,03,376/-. Further, a notice was issued to the lessee with a request to submit explanation as to why action cannot be taken for the transportation of 38,212 MTs of Limestone from the leased area without permits under Sec 21 (5) of MM (D&R) Amendment Act, 2015. He has also informed that the Department is continuing enquiry on the illegal mining/transportation of the mineral with the end user industry etc.

9. Government also noticed that explanation of the lessee Company as called for in the reference 13th read above, has not been received and the stipulated period of (60) days for submission of the same is also over. Hence, it is construed that the lessee Company has no explanation to offer on the lapses found on their part.

10. Government, after careful examination of the matter and without prejudice to any other proceedings including recovery of revenue dues, criminal liability and other civil liabilities against the lessee Company, hereby order that the Mining Lease for Limestone over an extent of 649.684 Hectares in Sy.No.22/B of Konuppalapadu (V), Yadiki (M), Ananthapuramu District, held by M/s.Trishul Cement Company is terminated for contravention of sub-Rule 10 of Rule 12 and Rule 24 of Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016.

11. Government also hereby revoke the orders issued in the reference 13th read above, granting extension of time for a further period of 5 years from 01.08.2015 to 31.07.2020 for establishment of Cement Plant as the lease which has been issued for the purpose of establishing Cement Plant is cancelled, and further till date no work has been commenced to set up Cement Plant.

12. The Director of Mines & Geology, Government of A.P., Vijayawada shall cause action for recovery of mineral revenue arrears indicated above, under Section 25 of MM (D&R) Amendment Act, 2015 and take further necessary action accordingly.

(BY ORDER AND IN THE NAME OF GOVERNOR OF ANDHRA PRADESH)

K.RAM GOPAL
PRINCIPAL SECRETARY TO GOVERNMENT (MINES)

To
M/s.Trishul Cements Company, 15/311, Sanjeeva Nagar, Tadipatri – 515 411, Ananthapuramu District (By RPAD).
The Director of Mines & Geology, A.P., Vijayawada.
Copy to:
The Deputy Director of Mines & Geology, Ananthapuramu.
The Assistant Director of Mines & Geology, Tadipatri, Ananthapuramu District.
The District Collector, Ananthapuramu District.
The Secretary to Govt. of India, Ministry of Mines, Sastry Bhavan, New Delhi - 110001.
The Controller General, Indian Bureau of Mines, Indira Bavan, Civil Lines,Nagpur.440001.
The Director General, Mines Safety, Dhanbad, Jarkhand.
The Regional Controller of Mines, IBM, Hyderabad.
SF/SCs.

// FORWARDED :: BY ORDER //

SECTION OFFICER